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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,653	12/31/2001	David A. Wyatt	42390.P13868	9274

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EXAMINER

LAO, SUE X

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,653

Applicant(s)

WYATT, DAVID A.

Examiner

Sue Lao

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/31/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) #
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1-12 are presented for examination.
2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/038,894. Although the conflicting claims are not identical, they are not patentably distinct from each other. For example, as to claim 1, Application No. 10/038,894 teaches a method, comprising: maintaining a global resource namespace (global resource namespace)including a list of a plurality child and parent resource objects (child and parent resource objects) and a representation of the relationships (representation of the relationships) among the child and parent resource objects [Application No. 10/038,894, claim 1, lines 2-5]; and attaching an additional child resource object (perform attachment) to one of the plurality of parent resource objects

[Application No. 10/038,894, claim 1, lines 2-3]. As to claim 2, it is met Application No. 10/038,894, claim 5. As to claim 3, it is met Application No. 10/038,894, claims 3 and 5. As to claim 4, it is met Application No. 10/038,894, claim 3. As to claim 5, it is met Application No. 10/038,894, claim 3. As to claim 6, it is met Application No. 10/038,894, claim 3 and that bandwidth is a typical resource. As to claims 7-12, note claims 1-6, respectively, for discussions.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, ie., all limitations in claims 1-12 of the instant application.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Abbondanzio et al (U S Pat. 5,890,011).

As to claim 1, Abbondanzio teaches a method, comprising:

Maintaining (Hareware Resource Manager HRM) a global resource namespace (Hardware Namespace, fig. 3) including a list of a plurality child (parent device/bus entry) and parent resource (child device/bus entry) objects and a representation of the relationships (hierarchical, fig. 3) among the child and parent resource objects; and

Attaching (add/enumerate) an additional child resource object (entry for child device/bus) to one of the plurality of parent resource objects (parent device/bus). See

additionally, col. 3, line 66 – col. 4, line 37; col. 3, line 66 – col. 4, line 8; col. 5, line 53 – col. 6, line 65.

As to claim 2, Abbondanzio teaches determining whether the parent resource object exists within the global resource namespace (obtain information about parent bus, col. 5, lines 56-62).

As to claim 3, Abbondanzio teaches determining whether the parent resource object is available (determine whether resource available in parent bus resource pool, col. 6, lines 30-36).

As to claim 4, Abbondanzio teaches determining whether conflicts exist that would prevent the child resource object from being attached to the parent resource object (determine conflict free range, col. 6, lines 1-29).

As to claims 7-10, these are program product claims of claims 1-4, respective, thus note claims 1-4, respectively, for discussions.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 6, 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbondanzio et al as applied to claims 1, 7 in view of Richek et al (U S Pat. 5,450,570).

As to claim 5, Richek teaches managing resources for device operations, including calculating resource requirements of a child resource object / device (determine resources and configuration, col. col. 5, line 13 – col. 6, line 24). Therefore, it would have been obvious to include a step of calculating into Abbondanzio. One of ordinary skill in the art would have been motivated to combine the teachings of Abbondanzio and Richek because this would have permitted a user to define

resources configuration alternatives and to establish interrelationships between resources (col. 4, lines 10-23).

As to claim 6, Abbondanzio teaches determining whether sufficient parent resource is available to satisfy the requirements of the child resource object (determine whether resource is available in patent bus resource pool, col. 5, line 53 – col. 6, line 65). Richek teaches resource requirements for device operations include memory bandwidth (col. 5, lines 66-68). Therefore, it would have been obvious to include memory bandwidth into the resources of Abbondanzio. Note the discussion of claim 5 for a motivation to combine.

As to claims 11, 12, these are program product claims of claims 5, 6, respectively, thus note claims 5, 6, respectively, for discussions.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue Lao whose telephone number is (571) 272-3764. A voice mail service is also available at this number. The examiner's supervisor, SPE Meng-Ai An, can be reached on (571) 272 3756. The examiner can normally be reached on Monday - Friday, from 9AM to 5PM. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 23, 2004



SUE LAO
PRIMARY EXAMINER